

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning & Economic Development Department

AGENDA DATE: Introduction: April 12, 2011
Public Hearing: April 19, 2011

CONTACT PERSON/PHONE: Mathew McElroy, (915) 541-4193,
McElroyMX@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An Ordinance amending Title 19 (Subdivisions), Chapter 19.47 (Vested Rights) and 19.50 (Definitions) of the El Paso City Code to delete the Chapter 19.47 in its entirety and to amend the definition for vested rights petition. The penalty is as provided in Chapter 19.42 of the City of El Paso City Code.

BACKGROUND / DISCUSSION:

This is a cleanup item predicated by the amendment to Title 1 adding vesting provisions. Deleting this language from Title 19 does not affect vesting status. The item was originally heard at CPC on March 10 where it was postponed so that staff could work with representation from the development community to draft language that was agreeable to both sides. On March 24, the ordinance was approved by CPC as amended.

PRIOR COUNCIL ACTION:

On November 30, 2010, the El Paso City Council approved moving forward with a Smart Growth implementation Plan. Items can be expected throughout April, May and then throughout the rest of the calendar year.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) and City Plan Commission (CPC) both recommend approval of this item.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director-Planning & Economic Development

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), CHAPTER 19.47 (VESTED RIGHTS) AND 19.50 (DEFINITIONS) OF THE EL PASO CITY CODE TO DELETE THE CHAPTER 19.47 IN ITS ENTIRETY AND TO AMEND THE DEFINITION FOR VESTED RIGHTS PETITION. THE PENALTY IS AS PROVIDED IN CHAPTER 19.42 OF THE CITY OF EL PASO CITY CODE.

WHEREAS, Title 19 (Subdivisions) of the El Paso City Code (the “Code”) was adopted to promote the health, safety, morals and general welfare of the community and helps guide the physical development of the community by promoting orderly and healthful design, and particularly by providing adequate public facilities; and,

WHEREAS, the City Council has determined that the process to determine vested rights should be applied to all permits and projects and has adopted such provisions under Title 1 and to avoid conflicts it is necessary to remove the vested rights provisions contained in Title 19; and,

WHEREAS, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community, and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 19, Subdivisions, of the El Paso City Code is amended by deleting Chapter 19.47, Vested Rights, in its entirety.

Section 2. That Title 19, Subdivisions, Chapter 19.50, Definitions, Section 19.50.030, Definitions of the El Paso City Code is amended by revision the definition for Vested rights petition as follows:

"Vested rights petition" means a request for relief from one or more standards of this title based on an assertion that the petitioner has acquired a vested right requiring the city to review and decide the application under standards in effect prior to the effective date of the standards of this title. Such petition is regulated under Title 1, Section 1.04.070.

Section 3. Except as herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ of _____ 2011

SIGNATURES ON FOLLOWING PAGE

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew McElroy Deputy Director
Planning & Economic Dev. Department -
Planning Division



Amendment to Title 1, Vesting

Vesting provisions will apply to the entire code, generally- Including Title 18.

Dormant permits and projects: Dormant projects lose their vesting. A project becomes dormant and the project expires when progress toward completion of the project has not occurred.

PERMIT: a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

EXPIRATION: (if no progress is made)

- Permits: Two years after issuance
- Project: Five years after first permit application



PROGRESS towards completion of the project shall include any one of the following:

- a. An application for a final plat or plan is submitted to a regulatory agency;
- b. A good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- c. Costs have been incurred for developing the project, including costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
- d. Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
- e. Utility connection fees or impact fees for the project have been paid to a regulatory agency